

IN RE: PETITION FOR SPECIAL EXCEPTION • BEFORE THE
SE/S Pulaski Highway, Corner • DEPUTY ZONING COMMISSIONER
SW/S Hanzlick Avenue • OF BALTIMORE COUNTY
(8231 Pulaski Highway) • Case No. 89-531-X
15th Election District •
7th Councilmanic District •
John F. Fischer
Petitioner •

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The petitioner herein requests a special exception to permit a car wash on the subject property in accordance with Petitioner's Exhibit 1.

The petitioner appeared, testified and was represented by Paul J. Feeley, Esquire. Also appearing on behalf of the Petition was Eugene F. Raphael, Registered Professional Land Surveyor. There were no Protestants.

Paul J. Feeley indicated that the subject property, known as 8231 Pulaski Highway, consists of 0.59 acres zoned M.L.-C.S.I., and is presently unimproved. Petitioner, who has owned the subject property for the past 7 years and the adjoining side and rear properties, is desirous of constructing a self-service, six bay car wash. Said facility will be accompanied by non-operated vacuum machines. Petitioner testified as to the surrounding commercial uses, including his heating and plumbing business which is operated to the south of the subject site. Testimony indicated that after discussions with Sherman Industries and numerous other companies who manufacture equipment similar to that proposed for use at this location, and based upon Petitioner's personal investigation of similar operations and knowledge of the vicinity, Petitioner firmly believes the use proposed will meet the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and will not result in any detriment to the health, safety or general welfare of the community.

Mr. Raphael testified as to the surrounding uses and indicated in his opinion the proposed use would meet the requirements of Sections 502.1 of the B.C.Z.R. Mr. Raphael stated that Petitioner's Exhibit 1 has been revised to respond to the requirements of the State Highway Administration as set forth in their comments dated June 14, 1989. Further, Mr. Raphael testified the proposed project would be in compliance with all other Zoning Plans Advisory Committee comments, including but not limited to that of the Developers Engineering Division of the Bureau of Engineering, and the Office of Planning. Mr. Raphael testified that all surrounding properties are zoned commercial and used for commercial purposes except the adjoining former gas station property which is zoned commercial but may be recently occupied for residential use. Petitioner argued the 24-hour use proposed is appropriate in light of the surrounding commercial uses and will not result in any detriment to the public health, safety or general welfare.

It is clear that the B.C.Z.R. permits the use proposed in an M.L.-C.S.I. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any ad-

verse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone.

Schultz v. Prince, 432 A.2d 1319 (1991).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 26th day of July, 1989 that the Petition for Special Exception to permit a car wash on the subject property in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) Prior to the issuance of any permits, Petitioner shall obtain CRG approval and/or a waiver of CRG requirements.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

July 25, 1989

Paul J. Feeley, Esquire
211 Courtland Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL EXCEPTION
SE/S Pulaski Highway, Corner of SW/S Hanzlick Avenue
(8231 Pulaski Highway)
15th Election District - 7th Councilmanic District
John F. Fischer - Petitioner
Case No. 89-531-X

Dear Mr. Feeley:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Redcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-531-X

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use use herein described property for a Car Wash.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
Legal Owner(s):
John F. Fischer
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner:
Paul J. Feeley
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.: 823-2044

ORDERED By The Zoning Commissioner of Baltimore County, this 26th day of July, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 30th day of June, 1989, at 11 o'clock A.M.

200-201
ESTIMATED LENGTH OF HEARING 1/2HR. (over)
AVAILABLE FOR HEARING
NEXT TWO MONTHS
OTHER
DATE 7/12/89

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
205 COURTLAND AVENUE
TOWSON, MARYLAND 21204

DESCRIPTION TO ACCOMPANY
SPECIAL EXCEPTION
8231 PULASKI HIGHWAY

March 2, 1989

Beginning at the intersection formed by the Southeast side of Pulaski Highway and the Southwest side of Hanzlick Avenue running thence on the Southwest side of Hanzlick Avenue S 31° 49' 25" W 149.22', thence S 58° 14' 35" W 181.00', thence N 31° 49' 17" W 149.62' to Pulaski Highway, thence on Southeast side of Pulaski Highway 181.00' to the place of beginning.

Containing .59 Acres, more or less.

Being known as #8231 Pulaski Highway.

E. F. Raphael
Registered Professional Land Surveyor
#2246

BALTIMORE COUNTY, MARYLAND
INTERIM-INTERIM COOPERATIVE

TO: J. Robert Haines
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 89-531-X
Item No. 434

Re: John F. Fischer

The Petitioner requests a special exception to use use herein described property for a Car Wash, as set forth in the description and plat attached hereto and made a part hereof.

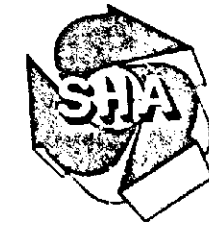
A CRG meeting will be held on July 12, 1989, at 11 o'clock A.M. at the County Office Building in Towson, Maryland. The undersigned, legal owner(s) of the property, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use use herein described property for a Car Wash.

This office has reviewed the petition and the proposed use and finds that the proposed use is consistent with the Zoning Regulations of Baltimore County.

A CRG meeting will be held on July 12, 1989, at 11 o'clock A.M. at the County Office Building in Towson, Maryland. The undersigned, legal owner(s) of the property, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use use herein described property for a Car Wash.

ANN M. NASTAROWICZ

430 44-531-7



Maryland Department of Transportation
State Highway Administration

RECEIVED
JUN 14 1989
ZONING OFFICE
June 14, 1989

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
John F. Fischer Property
Proposed Car Wash
Zoning Meeting of 4-25-89
3/S Pulaski Highway
(Route 41-E) at
Hanzlick Avenue
(Item #434)

Attn: Mr. James Dyer

Dear Mr. Haines:

After reviewing the submittal of a Special Exception for a car wash, we have the following comment.

The proposed 35' entrance must be moved 5' to the east to provide a 5' tangent section from the western property line.

Also, concrete curb and gutter along Pulaski Highway must be constructed 15' from the edge of the travelled roadway. This dimension must be shown on the plan.

The radii at the intersection with Hanzlick Avenue must be 30' and labeled on the plan.

If you have any questions, please contact Larry Brocato at 333-1350.

Very truly yours,

Carroll J. Mills, Jr.
Carroll J. Mills, Jr., Chief
Engineering Access Permits
Division

LB:maw

cc: E.F. Raphael & Assoc.
Mr. J. Ogle

333-1350

My telephone number is (301)

Teletypewriter for Impaired Hearing or Speech
363-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2386
(301) 887-4300

Paul H. Reincke
Chief

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

RE: Property Owner: John F. Fischer

Location: SE/S Pulaski Highway, corner SW/S Hanzlick Avenue

Item No.: 434 Zoning Agenda: April 25, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Carl J. Mills, Jr.* Noted and Approved
Planning Group File Prevention Bureau
Special Inspection Division

APR 26 1989

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee
S/S Carl Richards Date: May 11, 1989

FROM: Robert W. Bowling, P.E.

SUBJECT: Item #434

PROPERTY OWNER: John F. Fischer

LOCATION: SE/S Pulaski Highway, corner SW/S Hanzlick Avenue

District: 15th Election District

The Zoning Plan for the subject item has been reviewed by the Developers Engineering Division and we comment as follows:

GENERAL COMMENTS:

All private contracts for construction of storm drains and roads intended for public title and maintenance must be let under a contract form, proposal and attachments adopted by the Baltimore County Department of Public Works. The Developer has the option of placing the storm drains under a public contract.

All construction drawings and construction for public use shall conform with Baltimore County Department of Public Works Design Standards and Standard Specifications and Details for Construction.

The responsibilities of the Developer involving public improvements shall include the Inspection Fees, Burden and Fringe Costs incurred. Currently these charges are 3 times payroll for Metropolitan District Projects and 2 times payroll for the Capital Improvement Fund.

All improvements, intersections, entrances, drainage requirements and construction affecting a State Road right-of-way are subject to the Standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

In accordance with Bill No. 56-82, dredging, filling or construction in any wetland is prohibited.

Any manmade embankment over 10 feet vertically shall be designed and/or approved by a soils engineer. The following note is to be placed on the sediment control plans and grading plans before approval will be given:

"All manmade embankments have been designed and/or certified for stability by a soils engineer."

MY 1 5 89

CPS-008

8231 Pulaski Highway
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May 11, 1989

GENERAL COMMENTS: (Con't)

The Developer shall be responsible for damages to the County's facilities, such as water meters, manholes, curbs and gutters and sidewalks within his subdivision. Occupancy permits will be withheld until such damages have been corrected.

The Developer's Engineer shall investigate the need and obtain the necessary permits for the facilities serving this site that may require a "Corps of Engineer's Permit", a "Water Resources Permit", a "Water Quality Certification", and any other Federal or State Permits. These facilities cannot be sent to contract until such permits have been received.

The Developer shall not allow any cable television cables to be installed in this subdivision without the required County permits being obtained. Baltimore County will not assume any rights-of-way, easements, or maintenance of any public improvements, where such cables have been installed without a permit until the cables are satisfactorily located.

HIGHWAY COMMENTS:

Hanzlick Avenue is an existing road which shall ultimately be improved as a 40-foot street cross section on a 60-foot right-of-way.

The Developer's responsibilities along the existing road frontage of the subdivision shall be as follows:

- The submission of detailed construction drawings to extend a minimum distance of 200 feet beyond the limits of the subdivision or as may be required to establish line and grade.
- The submission of full cross-sections is deemed necessary for design and/or construction purposes. The sections are to be taken at 25-foot intervals and are to be shown on standard cross-section paper at 1" = 5' horizontal to 1" = 5' vertical scale.
- The preparation of the right-of-way plat for, and the dedication of any widening and slope easements at no cost to the County.
- The preparation of the right-of-way plats for any offsite road rights-of-way required to make the necessary improvements. Baltimore County will attempt to acquire the right-of-way at the Developer's expense.
- The grading of the widening and the existing road to the established grade. Where adjacent properties are adversely affected by the improvements, the Developer shall be financially responsible for the necessary repairs to these properties.
- The relocation of any utilities or poles as required by the road improvements.

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HIGHWAY COMMENTS: (Con't)

- The construction of combination curb and gutter in its ultimate location and a maximum of 28.5 feet of paving adjacent thereto along the frontage of the property. The paving thickness shall conform with Baltimore County Standards.

It shall be the responsibility of the Developer's engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The Developer shall be responsible for the submission of all necessary plats and for all costs of acquisition and/or abandonment of these rights-of-way.

The entrance locations are subject to approval by the Bureau of Traffic Engineering.

Entrances shall be a minimum of 24 feet and a maximum of 35 feet wide, shall have 10-foot minimum radii curb returns, shall be located a minimum of 15 feet from any property line, and shall be constructed in accordance with Baltimore County Standards (Details R-32, 1977 Edition), as the Developer's total responsibility.

In accordance with Bill No. 32-72 street lights are required in all subdivisions. The Developer will be responsible for the full costs of installation of the cable, poles and fixtures. The County will assume the cost of the power after installation.

Ramps shall be provided for physically handicapped persons at all street intersections.

Sidewalks are required adjacent to the public roads serving this site, including State roads as applicable. The sidewalks shall be 5 feet wide and shall be installed to conform with Baltimore County Standards, which places the back edge of the sidewalk 2 feet off the property line, or the adjacent unnumbered area.

The Developer shall be responsible for construction stake-out of all highway improvements required in connection with this site and all stake-outs shall be in accordance with Baltimore County Standards.

It shall be the Developer's responsibility to have his engineer set property line control stakes on the points of curvature and points of tangency and on adjacent rights-of-way along proposed roads to be used as control for the stake-out of utilities.

STORM DRAINS AND SEDIMENT CONTROL COMMENTS:

The Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost responsibilities include the acquiring of easements and rights-of-way - both onsite and offsite - and the deeding in fee of said rights-of-way to the County. Preparation of all construction, rights-of-way and easement drawings,

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STORM DRAINS AND SEDIMENT CONTROL COMMENTS: (Con't)

engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Developer.

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the Developer's responsibility. However, a drainage area map, scale 1" = 200', including all facilities and drainage areas involved, shall be shown on a plan and submitted to Baltimore County for review.

The Developer must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Developer.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm water management drawings will be necessary to be reviewed and approved prior to the recording of any record plat or the issuance of any grading or building permits.

In accordance with Baltimore County Council Grading, Sediment Control and Forest Management Ordinance (Bill No. 33-88), a grading plan shall be approved and a Performance Bond posted prior to issuance of a grading permit. A sediment control plan is required. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

The Developer shall be responsible to stabilize the sidewalk areas and supporting slopes on all road rights-of-way following completion of the initial grading of the boxed-out subgrade. The stabilization shall be accomplished within the nearest period of optimum seeding as established in the Baltimore County Sediment Control Manual. Minimum acceptable stabilization measures will be as specified in the Baltimore County Sediment Control Manual under "Critical Area Stabilization (With Semi-Permanent Seedings)".

Failure by the Developer to accomplish the stabilization as aforementioned will result in the termination of all processing phases of this development.

WATER AND SANITARY SEWER COMMENTS:

Permission to obtain a metered connection from the existing main may be obtained from the Department of Permits and Licenses.

Permission to connect to, or (to connect additional sanitary fixtures to) the existing public sanitary sewer may be obtained from the Department of Permits and Licenses.

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WATER AND SANITARY SEWER COMMENTS: (Con't)

The total Water and/or Sanitary Sewer System Connection Charge is determined, and payable, upon application for the Plumbing Permit. This Charge is in addition to the normal front foot assessment and permit charges.

Fire hydrant spacing and location are subject to review and approval by the Fire Protection Section of the Fire Department.

This property is subject to Water and/or Sewer System Connection Charges based on the size of water meters utilized in accordance with current County Policy.

The Developer shall contact Mr. Carlyle Brown of the Bureau of Public Services on 887-3321 for information on obtaining water service where the meter required is 3" or less, or the Developers Engineering Division on 887-3751 for water service requiring meters 4" and larger.

This Plan may be approved subject to compliance with all of the above comments.

SIGNED: ROBERT W. BOWLING

Robert W. Bowling, P.E., Chief
Developers Engineering Division

RWB:pab

cc: File

8231PULA/TXTCOM2

#227

#2271